

## § 35.6605

## 40 CFR Ch. I (7–1–04 Edition)

(1) The claim arises from work within the scope of the Cooperative Agreement;

(2) A formal Cooperative Agreement amendment is executed specifically covering the costs before they are incurred;

(3) The costs are not incurred to prepare documentation that should be prepared by the contractor to support a claim against the recipient; and

(4) The award official determines that there is a significant Federal interest in the issues involved in the claim.

(c) *Claims defense.* The recipient may incur costs (including legal, technical and administrative) to defend against a contractor claim for increased costs under a contract or to prosecute a claim to enforce a contract provided:

(1) The claim arises from work within the scope of the Cooperative Agreement;

(2) A formal Cooperative Agreement amendment is executed specifically covering the costs before they are incurred;

(3) Settlement of the claim cannot occur without arbitration or litigation;

(4) The claim does not result from the recipient's mismanagement;

(5) The award official determines that there is a significant Federal interest in the issues involved in the claim; and

(6) In the case of defending against a contractor claim, the claim does not result from the recipient's responsibility for the improper action of others.

### § 35.6605 Privity of contract.

Neither EPA nor the United States shall be a party to any contract nor to any solicitation or request for proposals.

### § 35.6610 Contracts awarded by a contractor.

The recipient must require its contractor to comply with the following provisions in the award of contracts (i.e. subcontracts). (This section does not apply to a supplier's procurement of materials to produce equipment, materials and catalog, off-the-shelf, or manufactured items.)

(a) The requirements regarding debarred, suspended, and voluntarily excluded persons in § 35.6560 of this subpart.

(b) The limitations on contract award in § 35.6550(a)(8) of this subpart.

(c) The requirements regarding minority and women's business enterprises, and small business in § 35.6580 of this subpart.

(d) The requirements regarding specifications in § 35.6555 (a)(6) and (c) of this subpart.

(e) The Federal cost principles in 40 CFR 31.22.

(f) The prohibited types of contracts in § 35.6575(a) of this subpart.

(g) The cost, price analysis, and profit analysis requirements in § 35.6585 of this subpart.

(h) The applicable provisions in § 35.6595 (b) and (c) of this subpart.

(i) The applicable provisions in § 35.6555(b)(2).

### REPORTS REQUIRED UNDER A COOPERATIVE AGREEMENT

#### § 35.6650 Quarterly progress reports.

(a) *Reporting frequency.* The recipient must submit progress reports quarterly on the activities delineated in the Statement of Work. EPA may not require submission of progress reports more often than quarterly. The reports must be submitted within 30 days of the end of each Federal Fiscal quarter.

(b) *Content.* The quarterly progress report must contain the following information:

(1) An explanation of work accomplished during the reporting period, delays, or other problems, if any, and a description of the corrective measures that are planned. For pre-remedial Cooperative Agreements, the report must include a list of the site-specific products completed and the estimated number of technical hours spent to complete each product.

(2) A comparison of the percentage of the project completed to the project schedule, and an explanation of significant discrepancies.

(3) A comparison of the estimated funds spent to date to planned expenditures and an explanation of significant

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discrepancies. For remedial, enforcement, and removal reports, the comparison must be on a per task basis.

(4) An estimate of the time and funds needed to complete the work required in the Cooperative Agreement, a comparison of that estimate to the time and funds remaining, and a justification for any increase.

### § 35.6655 Notification of significant developments.

Events may occur between the scheduled performance reporting dates which have significant impact upon the Cooperative Agreement-supported activity. In such cases, the recipient must inform the EPA project officer as soon as the following types of conditions become known:

(a) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(b) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.

### § 35.6660 Property inventory reports.

(a) *CERCLA-funded property*—(1) *Content*. The report must contain the following information:

(i) Classification and value of remaining supplies;

(ii) Description of all equipment purchased with CERCLA funds, including its current condition;

(iii) Verification of the current use and continued need for the equipment by site, activity, and operable unit, as applicable;

(iv) Notification of any property which has been stolen or vandalized; and

(v) A request for disposition instructions for any equipment no longer needed on the project.

(2) *Reporting frequency*. The recipient must submit an inventory report to EPA at the following times:

(i) Within 90 days after completing any CERCLA-funded project or any response activity at a site; and

(ii) When the equipment is no longer needed for any CERCLA-funded project or any response activity at a site.

(b) *Federally owned property*—(1) *Content*. The recipient must include the following information for each federally owned item in the inventory report:

(i) Description;

(ii) Decal number;

(iii) Current condition; and

(iv) Request for disposition instructions.

(2) *Reporting frequency*. The recipient must submit an inventory report to the appropriate EPA property accountable officer at the following times:

(i) Annually, due to EPA on the anniversary date of the award;

(ii) When the property is no longer needed; and

(iii) Within 90 days after the end of the project period.

### § 35.6665 Procurement reports.

(a) *Department of Labor (DOL) Reports*—(1) *Content*. The recipient must notify the DOL Regional Office of Compliance, in writing, of each construction contract which has or is expected to have an aggregate value of over \$10,000 within a 12-month period. The report must include the following:

(i) Construction contractor's name, address, telephone number, and employee identification number;

(ii) Award amount;

(iii) Estimated start and completion dates; and

(iv) Project number, name, and site location.

(2) *Reporting frequency*. The recipient must notify the DOL Office of Compliance within 10 calendar days after the award of each such construction contract. The recipient must submit a copy of the report to the EPA project officer.

(b) *Minority and women's business enterprise (MBE/WBE) Reports*. (1) The recipient must report on its use of MBE and WBE firms by submitting a completed Minority and Women's Business Utilization Report (SF-334) to the award official. Reporting commences with the recipient's award of its first contract and continues until it and its contractors have awarded their last contract for the activities or tasks